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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,908	11/27/2001	Subir K. Dey	3691-321	7677

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EXAMINER

CHEN, VIVIAN

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/993,908	Applicant(s) DEY ET AL.	
	Examiner Vivian Chen	Art Unit 1773	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see DETAILED ADVISORY ACTION.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 35-39.

Claim(s) objected to: _____.

Claim(s) rejected: 1,3,4,26-29 and 40.

Claim(s) withdrawn from consideration: 2.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: DETAILED ADVISORY ACTION

Vivian Chen
Primary Examiner
Art Unit: 1773

DETAILED ADVISORY ACTION

1. Claims 9-25, 30-34 have been cancelled by Applicant.

Response to Proposed Amendment

2. Although the proposed amendment has been entered, the Examiner notes that new claim 40 is identical to claim 8. Did Applicant intend to make claim 40 dependent on claim 35?

Response to Arguments

3. Applicant's arguments filed 8/17/2004 have been fully considered but they are not persuasive.

(A) Applicant argues that TSAI ET AL fails to disclose clear coat layers and tie layers with the recited transparency. However, the degree of opacity and/or transparency of the various layers of laminate used in structural and/or decorative purposes is a matter of design choice readily determined by one of ordinary skill in the art based on the particular aesthetic effects desired for a given application and the durability requirements imposed by usage conditions. The combination of clear layer(s) overlaying a colored layer is well known in the art (as illustrated in both SPAIN ET AL and SMITH ET AL) and has well established benefits (e.g., allowing enhanced distinctness of image and other visual effects; providing added abrasion-, weather-, and/or UV-resistance to decorative and/or pigmented layers; etc.). Therefore, it would have been obvious to one of ordinary skill in the art to use high transparency clear coat layers in order to maximize the visibility of a colored and/or decorated base layer. Similarly, it would

have been obvious to also use high transparency adhesive or tie layers to adhere said clear coat layer to a colored substrate in order to not interfere with the viewing of the underlying decorative base layer. Applicant has not provided any probative evidence of criticality or unexpected results from the recited transparency values.

(B) Applicant argues that SMITH ET AL teaches away from the claimed invention because it teaches away from the use of tie layers. However, contrary to Applicant's assertions, SMITH ET AL does not explicitly prohibit the use or presence of additional functional layers such as a adhesion-promoting tie layer on the clear coat layer prior to lamination onto the base layer, nor does the reference explicitly require that the clear coat layer consist of only one single layer. Therefore, one of ordinary skill in the art would reasonably believe that the use of other known performance-enhancing layers such as an adhesive layer would be compatible with the teachings in the SMITH ET AL reference as long as the functioning of the clear coat layer is not detrimentally affected.

(C) In response to applicant's arguments against SPAIN ET AL individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). SPAIN ET AL is relied upon to illustrate that polyvinyl fluoride is capable of forming clear film layers and that it is well known in the art to use such clear, high transparency PVF layers as protective surface layers in multilayer laminates.

(D) Applicant argue that the claims of the copending Application No. 09/993,909 (DEY ET AL) are not obvious over the claims of the present '908 application. However, Applicant's

arguments are unpersuasive and irrelevant because only a one-way determination of obviousness is required when the two applications at issue are filed on the same day (11/27/2001) (i.e., whether the '908 claims are obvious over the claims in copending application '909). The Examiner is not required to establish the obviousness of the claims of the '909 application over the present '908 application (i.e., a showing of two-way obviousness). See MPEP 804(II)(B)(1)(a). Since the styrene block copolymer in the claims of the present application '908 are deemed to be obvious in view of the linear SE/BS block copolymer grafted with maleic anhydride claimed in the copending '909 application, the Examiner has made a prima facie showing of one-way obviousness double patenting. Applicant has not provided any probative evidence to the contrary.

Allowable Subject Matter

4. Claims 35-39 are allowable over the prior art of record.
5. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to disclose or suggest a laminate comprising a thermoplastic polyolefin layer, adhesive layer, and a polyvinyl fluoride layer, wherein the adhesive layer comprises a mixture of a styrenic block copolymer and a terpene tackifier.

Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (571) 272-1516. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 31, 2004



Vivian Chen
Primary Examiner
Art Unit 1773